

Remarks

Entry of the Amendment is respectfully requested since it by its very nature would lessen the issues on appeal. Reconsideration is also sought in light of the remarks that follow.

Claims 1-17 are before the Examiner. Claim 1 has been amended to further distinguish over the teachings of the applied art. Claim 1, as amended, more clearly describe the structure of the housing- storage compartment and air line deploying means placements- and how it floats on the surface of a body of water.

The Examiner is thanked for his indication of allowable subject matter. Applicants note the objection to claims 4-8 and 12-14 and reserve the right to address the objection in the manner suggested by the Examiner. Claims 4 and 5 both require the presence of a base element with claim 5 additionally requiring the presence of a release mechanism. (Claims 6-8 further limit dependent claim 5.) Claim 12 further defines the nature of the buoyant material. (Claims 13 and 14 further limit dependent claim 12.) Amended claim 1 defines an air line deploying means and associated structure which clearly distinguishes over the Diggs winch and represents an earnest effort to track with the spirit of the Examiner's suggestion.

Claims 1-3, 9, 10 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taeiman (WO 97/10991) in view of Berge ('145) and Diggs ('201). Applicants respectfully traverse.

Claim 1 has been further amended to further recite that the housing that the housing has a top and bottom portion and that the air-line is retained within the bottom portion of the housing beneath the compressed air tank and the means for deploying the air-line is also located in the bottom portion of the housing.

The Examiner's attention is again directed to the figures for a visualization of the claimed system and clarification as to the positioning of the toroidal tank within the housing. The toroidal-shaped tank is surrounded on the top and bottom by the upper and lower portions of the housing. The tank is obscured from view when the claimed system is deployed, i.e. floating

on a body of water. It is quite clear that the claimed system is not worn (carried) by a diver in the sense of a SCUBA device or the Berge system. The bottom part (4) of the housing has a central disc-like rotatable portion 5 with apertures 6 through one of which the air-line 7 extends, the air-line being coiled inside the housing 1 by rotation of the central rotating portion 5 in opposite directions respectively.

It should be noted that underwater breathing equipment (air tank) is commonly cylindrical in shape, as shown in Taelman. Therefore, a skilled person would need to be motivated and guided to employ a toroidal shaped tank rather than the more common cylindrical one. Further, it is not clear from the references why one would modify the Taelman device to employ a toroidal shaped tank. Further, there is no apparent problem in Taelman suggesting the need to substitute a different tank shape. Berge suggest a compact shape which allows it to be worn in front of the upper part of the divers body. See col. 1, l. 26-30. This is Berge's desired end. The relevance of this teaching in the context of the claimed invention is not seen.

The motivation suggested in the Action for making the substitution is predicated on the notion that one would be alerted to the presence of a diver(s) upon seeing a less common tank shape, rather than a more common one floating on the surface of a body of water. The relevance is not clear in the context of the claimed system where the tank is not seen. Accordingly, the stated rationale boils down to "obvious to try". The technology exist therefore it should be employed here.

Finally, the Examiner relies on Diggs to show that it is known to provide the breathing apparatus of Taelman with a housing having a storage compartment and to provide means for deploying at least one air-line from said compartment when the system is used. This is not the case. Diggs does not teach a compartment. Rather, Diggs discloses a floating winch. It is submitted that a skilled person would lead by this teaching to simply mount the winch of Diggs on top of the breathing apparatus of Taelman, rather than provide Taelman with a housing having a storage compartment from which the air-line may be deployed. There is no guidance from any

of the applied references, alone or in combination, which would lead to the structure required by the claims. The compartment concept is clearly absent from the references. Also, neither the references nor the Action state a problem latent in Taelman that suggests its combination with Diggs. It is not evident from Taelman that there is a need for a greater hose length nor a need for a coil structure. A simple system seems to be desired by Taelman. See page 7, second and fourth paragraphs. Also note, the Taelman system is for underwater recreational viewing, which does not require prior certification, and its operation is viewed as being in water of fifteen feet or less. See page 8, second paragraph. The system is pulled along the surface by the attached diver. The use and envisioned operational limits suggest long hose lengths requiring spooling may not be desired. This reference combination appears to be assembled in hindsight.

Accordingly, a skilled person would not arrive at the present invention defined in claim 1 as a result of combining the disclosure in these three documents. A prima facie case of obviousness has not been established. Withdrawal of the rejection is respectfully requested.

Claims 1-3, 9, 10 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taeiman (WO 97/10991) in view of Berge ('145) and Diggs ('201) as applied to claims 1-3, 9, 10 and 15-17 above, and in further view of Miller ('849). Applicants respectfully traverse. The teachings of Miller ('849) have been considered. The Examiner's characterization of the Miller teachings is accurate. However, it is respectfully submitted that these teaching do not remedy the deficiencies of the Taelman, Berge and Diggs combination discussed above.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

A Notice of Allowance with claims 1-17 is respectfully requested.

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If the Examiner believes, for any reasons, that further communication will expedite prosecution of this application the Examiner is invited to telephone the undersigned at the number provided.

Applicant believes there are no additional fees associated with this reply other than those indicated. However, if this is incorrect, the Commissioner is authorized to charge any fees which may be required for this paper to Deposit Account No. 22-0261

Respectfully submitted,

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